

**STATEMENT OF CARY SHERMAN
PRESIDENT, RECORDING INDUSTRY ASSOCIATION OF AMERICA
BEFORE THE
SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL
PROPERTY
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES
ON
AN UPDATE – PIRACY ON UNIVERSITY NETWORKS**

MARCH 8, 2007

Chairman Berman, Ranking Member Coble, and Members of the Subcommittee, thank you very much for holding this hearing today. This Subcommittee has shown a tremendous amount of commitment to the important topic of piracy on college campuses. This hearing will be the fourth conducted in as many years and the bipartisan commitment to address the issue of piracy where it is most rampant is appreciated by untold numbers of creators who are working to ensure a legitimate digital marketplace.

I would very much like to tell you today that we have made progress on this issue. In many ways we have. But, unfortunately, this illegal activity still permeates college life and only a handful of university administrations have begun to take seriously the reality of its repercussions. It is, therefore, probably more accurate to say that our job has just begun.

The following statistics speak for themselves: A recent survey by the Intellectual Property Institute at the University of Richmond's School of Law found that more than half of college students download music and movies illegally. Additional data from market research firm NPD shows that college students, the most avid music fans, get more of their music from illegal P2P than the rest of the population.

Certainly you can understand why we in the music industry, and those in the broad range of content industries, are concerned about the theft, and the resulting erosion of the economic value, of our creative works. We are talking about billions of dollars in lost sales, thousands of lost jobs, countless lost career opportunities for talented writers and musicians, and a major barrier to the growth of a legitimate online marketplace that can benefit everyone. Of course, it isn't just music that is being stolen. It's also movies, TV shows, computer software and more – a massive assault on a segment of our economy responsible for more than 6 percent of our nation's GDP.

Today, there is no longer any justification for stealing music. We have transformed our business, so that music is now available everywhere and anywhere, all the time. Whether online or on mobile phones, whether by download or subscription service, music has never been as accessible to fans as it is right now. And, in fact, our

studies show that more music is being acquired than ever – but less and less of it is being paid for.

In the debate over what's appropriate for educational institutions and what's necessary for content industries, we tend to lose sight of our true mutual interest in the underlying concept: Intellectual Property. A concept so important, it is provided for in the Constitution itself. A concept that defines, supports, and rewards both content industries and institutions of higher education. We both rely on the magic of creativity and the power of creation. And we both have every reason in the world to protect them.

And yet, as the studies I mentioned show, that protection is largely missing on our college campuses. This is particularly frustrating given all that we, and many others in the content industries, have done to address this issue. We have met personally with hundreds of university administrators. We have provided both instructional material and educational resources to help deter illegal downloading. Through the EdVenture Program, we launched a peer-to-peer marketing campaign in which students themselves developed and executed a communications strategy designed to deter their peers from illegal downloading, and we are running these ads in student newspapers. We have participated in Congressional hearings, including several in this Subcommittee. Working collaboratively and productively through organizations like the Joint Committee of the Higher Education and Entertainment Communities, we have informed schools of effective network technologies to inhibit illegal activity. We have licensed legitimate music services at steeply discounted rates for college students and helped to arrange partnership opportunities between universities and legitimate services. We have stepped up our notice program to alert schools and students of infringing activity. And, of course, we have as a last resort brought suit against individual file-traffickers.

As you may know, the RIAA, on behalf of its member labels, announced last week a new round of lawsuits, which includes 400 students at colleges and universities around the country. As part of this round of lawsuits, based on requests, we have introduced a new program intended to give students the opportunity to settle the suits at lower cost and before they enter the public record. We have asked for school administrations' assistance in passing our pre-lawsuit settlement notices on to students so that they may decide whether to settle before suit is actually filed.

Lawsuits have always been a last resort for us. But deterrence is an essential element in any enforcement program, and increasingly necessary when others neglect to take responsibility.

It doesn't have to be like this. We take this opportunity to once again ask schools to recognize the harm their inaction causes, to acknowledge the solutions that have been presented, and to work with us productively to address a problem that affects us all.

First, we ask schools to seriously consider implementing a network technical solution. Products like Red Lambda's cGrid are promising as effective and comprehensive solutions that maintain the integrity, security, and legal use of school computing systems without threatening student privacy. Some schools have used these

products to block the use of P2P entirely, realizing that the overwhelming, if not sole, use of these applications on campus is to illegally download and distribute copyrighted works. For schools that do not wish to prohibit entirely access to P2P applications, products such as Audible Magic's CopySense can be used to filter illegal P2P traffic, again, without impinging on student privacy.

Second, we ask them to offer their students legitimate online services like the advertisement-based Ruckus that is free to users. When schools increasingly provide their students with amenities like cable TV, there is simply no reason not to offer them cheap or free legal access to the music they crave.

Third, we ask them to truly enforce the law and their own policies against infringement. This means strengthening the deterrent factor by ensuring swift and meaningful punishment when caught. Merely providing a warning for first infractions does little else than grant "one free pass" to students. Given the broad understanding that such activity is illegal, what rationale is there for waiting for a second time before schools take truly meaningful action? In addition, enforcement should also target illegal file-trafficking on school local area networks (LANs). While this activity is not engaged in on the broader Internet, it is no less illegal. Students should be aware that, whether taking place on the Internet, across campus, or just in dorms, the school will not allow its resources to be used for online theft.

Of course, we also ask them to continue any educational initiatives, and remind them of resources available through our industry and the Joint Committee, such as the orientation video available at www.campusdownloading.com. The Joint Committee, in fact, has been instrumental in bringing awareness to schools and in exploring the different technological and business solutions for administrations and their students. As Co-Chair, I have had the privilege of working with such gifted and proactive thinkers as Graham Spanier, President of Penn State University. This year, President Spanier has passed his Co-Chairmanship of the Joint Committee on to Brit Kirwan, Chancellor of the University System of Maryland. I look forward to a rewarding partnership with Chancellor Kirwan as we continue the mutually beneficial work of the Joint Committee.

Some schools have embraced the solutions I outlined above and have begun to see positive results. We thank these schools and commend them for their responsible actions. But far too many have yet to step up and take responsibility for their students on their network. And until they do, this problem will not go away, a viable online marketplace solution will continue to be jeopardized, and schools are bound to see more of their students facing legal action.

We invite colleges and universities to work with us to help reduce the need for lawsuits like the ones we initiated last week. We invite them to reclaim the integrity, efficiency, and legal use of their networks. And we invite them to step up as moral leaders, to ensure that their students understand the implications of theft, and to safeguard the value of the intellectual property that defines them.

Once again, we thank the Subcommittee for its continued interest in this matter, to help bring this harmful and ongoing illegal activity the attention it deserves, and to help encourage those who can make a difference to do so.

Thank you.